

ASSEMBLY BILL

No. 1446

Introduced by Assembly Member Feuer

February 27, 2009

An act to amend Section 3426.7 of the Civil Code, relating to trade secrets.

LEGISLATIVE COUNSEL'S DIGEST

AB 1446, as introduced, Feuer. Trade secrets: disclosure by public agencies.

The Uniform Trade Secrets Act establishes specified remedies for the misappropriation of a trade secret. The act provides that its provisions do not affect the disclosure of a record by a state or local agency under the California Public Records Act, which requires state and local agencies to make their records available for public inspection, unless an exemption applies, and to make copies available upon payment of specified fees.

This bill would establish a procedure to be applied when a person or entity submits any record or information to a state agency that the person or entity has designated as a trade secret. The bill would require the person or entity to submit documentary support for that designation to the agency to which the record or information is submitted and, if the agency concurs in the designation, would provide that the record or information shall be exempt from disclosure. The bill would provide that the fact that the record or information is exempt from disclosure shall be a public record subject to disclosure.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3426.7 of the Civil Code is amended to read:

3426.7. (a) Except as otherwise expressly provided, this title does not supersede any statute relating to misappropriation of a trade secret, or any statute otherwise regulating trade secrets.

(b) This title does not affect (1) contractual remedies, whether or not based upon misappropriation of a trade secret, (2) other civil remedies that are not based upon misappropriation of a trade secret, or (3) criminal remedies, whether or not based upon misappropriation of a trade secret.

(c) (1) This title does not affect the disclosure of a record by a state or local agency under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). ~~Any~~

(2) Any determination as to whether the disclosure of a record under the California Public Records Act constitutes a misappropriation of a trade secret and the rights and remedies with respect thereto shall be made pursuant to the law in effect before the operative date of this title.

(3) *The following provisions apply when a person or entity submits any record or information to a state agency that the person or entity has designated as a trade secret:*

(A) *The person or entity making the designation shall submit documentary support for that designation to the agency to which the record or information is submitted.*

(B) *If the agency to which the documentary support is submitted concurs in the designation of the record or information as a trade secret, the record or information shall be exempt from disclosure.*

(C) *If any record or information is exempt from disclosure because it has been designated a trade secret pursuant to subparagraph (B), that fact shall be considered a public record subject to disclosure.*